

**ORDINANCE NO. 10
SERIES 2006**

AN ORDINANCE OF THE CITY OF GUNNISON, COLORADO AUTHORIZING THE ISSUANCE AND SALE OF ITS CITY OF GUNNISON, COLORADO REVENUE BOND (WESTERN STATE COLLEGE FOUNDATION PROJECT) SERIES 2006 IN THE AGGREGATE PRINCIPAL AMOUNT OF \$6,000,000; RATIFYING CERTAIN ACTIONS HERETOFORE TAKEN; AUTHORIZING THE EXECUTION AND DELIVERY BY THE CITY OF A FINANCING AGREEMENT, CLOSING DOCUMENTS AND SUCH BOND IN CONNECTION THEREWITH; APPROVING THE FORM OF CERTAIN ANCILLARY DOCUMENTS; AND REPEALING ANY ACTION HERETOFORE TAKEN IN CONFLICT HEREWITH.

WHEREAS, the City of Gunnison, Colorado (the “City”) is authorized by its home rule charter (the “Charter”) and the County and Municipality Development Revenue Bond Act, Sections 29-3-101, *et seq.*, Colorado Revised Statutes, as amended (the “Act”) and by the Supplemental Public Securities Act, Section 11-57-201 *et seq.*, Colorado Revised Statutes, as amended (the “Supplemental Public Securities Act”), to issue industrial revenue development bonds; and

WHEREAS, the Western State College Foundation (“WSCF”) has requested that the City assist in financing the construction of the Borick Business Building located on the northwest corner of Georgia Avenue and Adams Street, on the Western State College campus, in Gunnison, Colorado 81231 (the “Project”) and the City hereby determines that such financing will be consistent with the Charter, the Act and the Supplemental Public Securities Act; and

WHEREAS, pursuant to and in accordance with the Charter, the Act and the Supplemental Public Securities Act, the City proposes to undertake the financing of the Project; and

WHEREAS, the City proposes to finance the cost of the Project under the Charter, the Act and the Supplemental Public Securities Act by the issuance of a revenue bond (the “Bond”) of the City, and by loaning the proceeds thereof to WSCF; and WSCF desires to borrow the proceeds of the Bond upon the terms and conditions set forth in the Financing Agreement, dated as of August 1, 2006 (the “Agreement”), by and among the City, WSCF and Wells Fargo Brokerage Services, LLC (the “Bank”); and

WHEREAS, the Lender proposes to purchase the Bond from the City;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, ORDAINS:

Section 1. All action not inconsistent with the provisions of this Resolution heretofore taken by any of the City’s officials and the efforts of the City directed toward the financing of the Project, the issuance and sale of the Bond therefor, and loaning the proceeds thereof to WSCF therefor be, and the same hereby are, ratified, approved and confirmed.

Section 2. The City shall finance the Project by causing the proceeds of the Bond to be used to finance the Project and to pay certain costs incurred in connection with the issuance of the Bond, all in accordance with the provisions and conditions of the Agreement, the Charter, the Act and the Supplemental Public Securities Act. The City hereby elects to have the provisions of the Supplemental Public Securities Act apply to the Bond.

Section 3. To defray the cost of financing the Project, there is hereby authorized and created a revenue bond designated as “City of Gunnison, Colorado Revenue Bond (Western State College Foundation Project) Series 2006” in an aggregate principal amount not to exceed \$6,000,000 to be dated the date of its issuance and delivery and shall, pursuant to the Supplemental Public Securities Act, bear interest from its date at the rate to be determined by the Mayor of the City; provided, however, that if an Event of Taxability shall have occurred, the Bond shall bear interest at a rate equal to 12.00% per annum, beginning on the date which is six months from the date the Registered Owner thereof gives notice of the Event of Taxability to WSCF. Pursuant to the Supplemental Public Securities Act and the Agreement, the original

principal amount of the Bond shall be determined by the Mayor of the City. The maximum net effective interest rate on the Bond shall be 12.00%.

The Bond will mature on July 31, 2016. Interest on the Bond shall be payable on the last day of each month, commencing August 31, 2006 and the principal of the Bond shall be payable on the last day of each month, commencing August 31, 2006, as provided in the Agreement. The Bond will be issuable as a fully registered bond in accordance with the provisions of the Charter, the Act, the Supplemental Public Securities Act and the Agreement.

The Bond shall be subject to redemption prior to maturity and shall be in substantially the form provided in the Agreement. The Bond shall be sold to the Purchaser in a negotiated, private sale at a purchase price equal to the original outstanding principal amount of the Bond.

Section 4. The following determinations and findings, based upon information supplied and representations made by WSCF are hereby made:

- (a) Using the expected yield on the Bond of 5.0%, the principal of and interest payments on the Bond are set forth in Appendix A hereto.
- (b) The terms of the Agreement pursuant to which the City will loan the proceeds of the Bond to WSCF provide that WSCF shall cause the facilities being financed to be maintained in good repair and shall carry all proper insurance with respect thereto.
- (c) The revenues payable under the Agreement are sufficient to pay all other requirements of the Agreement and this Ordinance.
- (d) No reserve funds shall be established for the Bond or the Project.

Section 5. The form, terms and provisions of the Agreement be and they hereby are approved, and the City shall enter into the Agreement substantially in the form of the Agreement presented at this meeting, but with such changes therein as the officers of the City executing the Agreement shall approve, their execution thereof being deemed conclusive of their approval of any such changes, and the Mayor is hereby authorized and directed to execute and deliver the Agreement and the City Clerk is hereby authorized and directed to affix the seal of the City to, and to attest the Agreement in substantially the form of the Agreement attached hereto.

Section 6. The form, terms and provisions of the Bond, in substantially the form contained in the Agreement, be and they hereby are approved; and the Mayor is hereby authorized and directed to execute the Bond, the City Clerk is hereby authorized and directed to attest the Bond and is authorized to deliver the Bond in the form contained in the Agreement but with such changes therein as the officer of the City executing the Bond shall approve, his execution thereof being deemed conclusive of his approval of any such changes. The seal of the City is hereby authorized and directed to be affixed to or imprinted on the Bond. The signature of the Mayor or the signature of the City Clerk on the Bond, and the City seal, may be a facsimile.

Section 7. The officers of the City shall take all action which they deem necessary or reasonably required in conformity with the Charter, the Act and the Supplemental Public Securities Act to finance the Project which is hereby authorized, and for carrying out, giving effect to and consummating the transactions contemplated by this Ordinance and the Agreement, including without limitation the execution and delivery of any closing documents to be delivered in connection with the sale and delivery of the Bond.

Section 8. The cost of financing the Project will be paid out of the proceeds of the Bond. THE BOND AND THE INTEREST THEREON SHALL NEVER CONSTITUTE A MULTIPLE-FISCAL YEAR DIRECT OR INDIRECT DEBT OR OTHER FINANCIAL OBLIGATION WHATSOEVER OF THE CITY OR THE DEBT OR INDEBTEDNESS OF THE CITY WITHIN THE MEANING OF ANY PROVISION OR LIMITATION OF THE

CONSTITUTION OR STATUTES OF THE STATE OF COLORADO AND SHALL NEVER CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE CITY OR A CHARGE AGAINST ITS GENERAL CREDIT.

Section 9. Pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended, the City hereby approves the issuance of the Bond and the financing of the Project and hereby requests that the Mayor of the City execute a public approval certificate which approves the issuance of the Bond and the financing of the Project.

Section 10. The City, including any entities acting on behalf of or subordinate to the City, does not anticipate issuing more than \$10,000,000 of tax-exempt obligations during the calendar year 2006, which is the calendar year in which the Bond is issued. No proceeds of the Bond will be used in a manner which would cause the Bond to be a private activity bond (other than a “qualified 501(c)(3) bond”). Accordingly, the City hereby designates the Bond as a “qualified tax-exempt obligation” pursuant to Section 265(b)(3)(b)(i) of the Internal Revenue Code of 1986, as amended.

Section 11. After the Bond is issued, this Ordinance shall be and remain irrevocable until the Bond and interest thereon shall have been fully paid, cancelled and discharged.

Section 12. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 13. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith or with the documents hereby approved are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, resolution or ordinance, or part thereof.

Section 14. This Ordinance shall be in full force and effect upon adoption. This Ordinance shall be recorded in a book kept for that purpose, shall be authenticated by the signatures of the Mayor and the City Clerk, and shall be published in accordance with law. Pursuant to Section 6.14 of the City’s Charter, this Ordinance shall be excepted from the initiative and referendum provisions of the Charter.

INTRODUCED, READ, PASSED AND ORDERED PUBLISHED this 8th day of August, 2006, on first reading, and introduced, read, and adopted on second and final reading this _____nd day of _____, 2006.

Mayor

SEAL:

ATTEST:

City Clerk

Appendix A
Estimated Schedule of Principal and Interest Payment

\$6,000,000
City of Gunnison, Colorado
Tax-Exempt Revenue Note
(Western State College Foundation Project), Series 2006

Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I
02/01/2007	385,369.10	5.000%	125,833.33	511,202.43
08/01/2007	370,836.66	5.000%	140,365.77	511,202.43
02/01/2008	380,107.58	5.000%	131,094.86	511,202.44
08/01/2008	389,610.27	5.000%	121,592.17	511,202.44
02/01/2009	399,350.53	5.000%	111,851.91	511,202.44
08/01/2009	409,334.29	5.000%	101,868.15	511,202.44
02/01/2010	419,567.65	5.000%	91,634.79	511,202.44
08/01/2010	430,056.84	5.000%	81,145.60	511,202.44
02/01/2011	440,808.26	5.000%	70,394.18	511,202.44
08/01/2011	451,828.46	5.000%	59,373.97	511,202.43
02/01/2012	463,124.18	5.000%	48,078.26	511,202.44
08/01/2012	474,702.28	5.000%	36,500.16	511,202.44
02/01/2013	486,569.84	5.000%	24,632.60	511,202.44
08/01/2013	498,734.08	5.000%	12,468.35	511,202.43
Total	\$6,000,000.00	-	\$1,156,834.10	\$7,156,834.10

Yield Statistics

Bond Year Dollars	\$23,136.68
Average Life	3.856 Years
Average Coupon	5.0000001%
Net Interest Cost (NIC)	5.3241606%
True Interest Cost (TIC)	5.3739912%
Bond Yield for Arbitrage Purposes	5.0012107%
All Inclusive Cost (AIC)	5.4443520%

IRS Form 8038

Net Interest Cost	5.0000001%
Weighted Average Maturity	3.856 Years